IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10623 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LATHA P NAIR

Versus

DIRECTOR OF RESERCH

Appearance:

1. Special Civil Application No. 10623 of 1999

MS PRITI PANDYA for Petitioner No. 1

MR DG CHAUHAN for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 16/09/2003

ORAL JUDGEMENT

Heard learned advocate Ms.Priti Pandya for the petitioner and Mr.D.G. Chauhan for the respondent University. In this petition, the petitioner has prayed

for regularization of their services and for directing the respondents to make payment on the basis of the principles of equal work equal pay. The petitioner is relying upon the directions earlier issued by this court in Special Civil Application no. 3249 of 1999 and other allied matters by order dated 1.4.1995.

Learned advocate Mr.D.G.Chauhan appearing for the respondent University has submitted that out of total eight petitioners of SCA No.6162 / 1999 and allied matters, services of the one of the petitioners namely Mr. B S Kamdar has been regularized under the scheme declared by the Hon'ble apex court in the decision reported in AIR 2001 SC 706. As regards other petitioners namely RU Patel, Lalitaben B. Joshi, Mr. SB Shaikh and Mr.P.S. Mehta, it was submitted by the learned advocate Mr.Chauhan that all the said petitioners are getting the minimum wages for the work done by them and over and above that, they are getting Rs.500.00 p.m.each as per the interim orders of the tribunal where the reference is pending. Except the above referred employees, the employees namely Ashaben N. Mehta, Bhupat H.Patel are getting only minimum wages for the post on which they are working. Now, as regards another employee Mr. L.V. Kuva, it was submitted by him that he is working as a daily wager with the respondent university, he has not been selected by the university but apart from that, the said workman Mr.L.V. Kuva is working with the respondent university. Except Mr. L.V. Kuva, rest of the seven employees referred to hereinabove are already selected by the respondent university and the university has made proposal before the State Government vide letter dated 23.1.2003 to sanction the post for which these seven workmen have been selected. It was submitted by Mr. Chauhan that this proposal made by the respondent University has been addressed to the Chief Secretary of the Agriculture and Cooperation Department by letter dated 23.1.2003 but till this date, no decision has so far been taken by the said authority of the State Government and the same is pending before the said authority. It is, thus, his submission that the respondent university is unable to regularize the services of seven employees who are petitioners before this court for want of sanction from the State Government. Learned advocate Mr.Chauhan also submits that as and when the respondent university will receive sanction from the State Government in that regard, the respondent university will certainly pass appropriate orders as regards regularization of the services of the seven petitioners and it will also pass appropriate orders in that regard on the basis of the principles of

equal pay for equal work as directed by the learned Single Judge of this court in the aforesaid petitions by order dated 1.4.1995 for deciding as to whether these employees are entitled for regular wages or not. However, according to Mr.Chauhan, for want of sanction from the State Government, the respondent university is not able to pass any orders in that regard.

I have considered the submissions made by the learned advocates for the parties while keeping in mind the orders earlier passed by the learned Single Judge of this Court in aforesaid petitions on 1.4.1995. Considering the statement made by the learned advocate Mr.D.G.Chauhan on behalf of the respondent university, I am of the view that the respondent university is prepared to regularize the services of the said seven employees and to consider their case for equal pay for equal work in terms of the directions issued by this court in aforesaid petitions on 1.4.1995 and therefore, the university has made proposal in the State Government on 23.1.2003 as stated earlier but for want of sanction from the State Government till this date, the university is unable to do anything at present. Considering this aspect of the matter, I am of the opinion that it would be just and proper to direct the concerned authority of the State Government to take appropriate decision on the proposal made by the respondent university within some reasonable period and then to direct the respondent university to take consequential steps after the sanction from the State Government is received by the respondent university. If such orders are passed by this court, it would met ends of justice.

Considering the aforesaid facts and circumstances of the case, it is directed to the Principal Secretary, Agriculture and Cooperation Department of the State Government to consider the proposal of the respondent university dated 23.1.2003 and to pass appropriate well reasoned and speaking order in accordance with law and after considering the decision of this court dated 1.4.1995 in the aforesaid matters within the period of two months from the date of receipt of copy of this order. After the sanction is received by the respondent university from the State Government, respondent university is directed to pass appropriate orders as regards regularization of the petitioner and also to pass appropriate order about the past wages from the date of the petition as directed by the learned Single Judge of this Court in his order dated 1.4.1995 within one month from the date of receipt of the sanction from the State Government in view of the letter dated 23.1.2003.

With these observations and directions, this petition is disposed of with no order as to costs. Rule is discharged. There shall be no order as to costs.

Date : 16.9.2003 [H.K.Rathod,J.]

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